



EUROPEAN COMMISSION

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REGULATORY SCRUTINY BOARD OPINION

**COMMISSION DELEGATED REGULATION (EU) .../... supplementing Directive
2003/87/EC of the European Parliament and of the Council with regard to the operation
of the Innovation Fund**

{ C(2019) 1492 final }
{ SWD(2019) 85 final }
{ SWD(2019) 86 final }



EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
Ares(2018)

Opinion

Title: Impact Assessment / ETS Innovation Fund

(version of 12 September 2018)*

Overall opinion: POSITIVE WITH RESERVATIONS

(A) Context

The revised EU Emissions Trading (ETS) Directive established an Innovation Fund. This fund's purpose is to support low-carbon technology demonstration projects in energy-intensive industries, and in the fields of renewable energy, energy storage and carbon capture use and storage. Financing for the fund comes from auctioning at least 450 million ETS emissions allowances in the period until 2030.

A delegated act sets the rules for how the fund will operate. This impact assessment assesses options on the implementation modalities for these rules. It draws on the experience of the NER 300 programme, which the fund would replace. A main problem for NER 300 was reportedly a high rate of project failure in the inception phase.

(B) Main considerations

The Board takes note of helpful additional information and commitments to adjust the initial impact assessment report.

The report still has important shortcomings. As a result, the Board expresses reservations and gives a positive opinion only on the understanding that the report shall be further adjusted in order to integrate the Board's recommendations on the following key aspects:

- (1) The report does not present sufficient evidence about why the NER 300 programme failed to deliver. It is not clear to what extent failures were due to programme design, organisation, or unexpected market developments. The rationale for shifting to ex-ante grant allocation and for other changes is not well supported.**
- (2) The report does not make sufficiently clear what this delegated act should decide. It does not substantiate the proposed level of flexibility for individual calls for proposals. It does not examine options for how much flexibility is desirable to successfully administer the innovation fund.**

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted.

- (3) The report does not sufficiently explain how the Innovation Fund complements other EU programmes (i.e. InvestEU, LIFE, Horizon etc.) by supporting demonstration projects.**
- (4) The report is not sufficiently clear regarding how to evaluate success.**

(C) Further considerations and adjustment requirements

(1) In the absence of a formal evaluation of the NER 300 programme, the problem analysis should make available whatever evidence there is on what worked, what did not, and why. The report should explain how implementation problems stemmed from technologies and features of priority sectors and project types. This should include CCS, CCU and biofuel projects as well as missed forecasts of carbon prices. The report should explain why national governments did not provide guarantees for NER 300, choosing instead to e.g. adopt national programmes that investors may have found more attractive.

(2) The report should include a sensitivity analysis with respect to carbon price and oil prices – the external factors arguably responsible for the failure of NER 300. It should be made clear how the future carbon price determines the resources available for the innovation fund as well as demand for support to demonstration projects depending on the level of technology readiness levels.

(3) The report should better explain its interpretation of risk sharing. It could show that NER 300 failed to cover risks that are beyond the control of innovators, justifying risk sharing. The report should better explain the consequences of the risk sharing approach, and what safeguards and mitigation measures are proposed. The problem analysis for governance structure should explore in more detail where links between NER 300 and other EU programmes may have been lacking.

(4) The report should clarify what has been decided in the ETS Directive, and what this delegated act now needs to establish. What can and needs to be left for the specific calls for proposal should also be clear. The report should explain the reasons for this split, and clarify what room there is to adjust the division. It should elaborate on the risk that this approach might create planning and operational uncertainties for innovators and investors, and hence affect their interest to engage in long-term projects under the fund. If one objective is to ensure maximum flexibility in the way the fund would operate, this should be reflected both in the statement of the objectives and in the range of options. If the fund is to operate in a highly flexible way, the report should also be clearer on what success would look like and how to assess it operationally.

(5) The justification for such a flexible approach would benefit from a broader discussion on how the innovation fund would complement other policy instruments at EU level that support innovation activities, demonstration projects and research and development in general.

(6) The range of options should reflect the implicit flexibility in the fund's operation. The report should consider options that would ensure the viability of both small and large projects, allowing for support to technologies of different market readiness, in terms of eligible costs, payment disbursements or the type of financing.

(7) The preferred option combines elements that could lead to an overall increase in cumulative administrative costs. The report should discuss this possibility and ways to mitigate the increase. Where possible, it should give quantitative indications based on the experience with the implementation of NER300 and other innovation related EU funds.

The Board takes note of the quantification of the various costs and benefits associated to the preferred option(s) of this initiative, as assessed in the report considered by the Board and summarised in the attached quantification tables.

Some more technical comments have been transmitted directly to the author DG.

(D) RSB scrutiny process

The lead DG shall ensure that the report is adjusted in accordance with the recommendations of the Board prior to launching the interservice consultation.

The attached quantification tables may need to be adjusted to reflect any changes in the choice or the design of the preferred option in the final version of the report.

Full title	Commission Delegated Regulation supplementing Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC with regard to the operation of the innovation fund.
Reference number	PLAN/2017/916
Date of RSB meeting	10/10/2018

ANNEX: Quantification tables extracted from the draft impact assessment report submitted to the Board on 12/09/2018

(N.B. The following tables present information on the costs and benefits of the initiative in question. These tables have been extracted from the draft impact assessment report submitted to the Regulatory Scrutiny Board on which the Board has given the opinion presented above. It is possible, therefore, that the content of the tables presented below are different from those in the final version of the impact assessment report published by the Commission as the draft report may have been revised in line with the Board's recommendations.)

Summary of costs and benefits

Since the Innovation Fund will operate until 2030, there are many uncertainties as regards market evolution, carbon price, costs and achievements of the demonstrated technologies. Potential significant increase in the carbon price will not only directly result in proportionate increase of the budget of the Innovation Fund, but also likely reduce the funding gap of supported projects, leading to higher leverage of the intervention.

<i>I. Overview of Benefits</i>		
<i>Description</i>	<i>Amount (due to uncertainties presented as indication of the magnitude of impact)</i>	<i>Comments</i>
<i>Direct benefits</i>		
Estimated investment volume for low-carbon technologies	55 to 68 billion EUR	The investment volume, which the Innovation Fund will effectively be able to support, will critically depend on the carbon price. The carbon price will determine the size of the Fund and profitability of projects.
GHG emissions avoided (projects supported by the Fund)	Avoided emissions are a function of the undertaken investments	A comprehensive estimation was not possible for the expected emissions reductions. A more detailed analysis of a sample of technologies showed emissions reductions of 10 to 23 million tons for an illustrative sample of technologies with investment volume of 14 billion EUR .
Employment	Generated employment is a function of the undertaken investments	A comprehensive estimation was not possible.
<i>Indirect benefits</i>		
Roll-out of low-carbon technologies after 2030 (broader adoption of low carbon technologies due to demonstration	+++	

effect and technology transfer)		
Increased competitiveness of EU industry (global leadership on low carbon technologies)	+++	

II. Overview of administrative costs – Preferred option (compared to baseline)						
	Citizens/Consumers		Businesses		Administrations	
	One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Direct costs	None	None	<i>reduced</i>	<i>reduced</i>	<i>reduced</i>	<i>reduced</i>
Indirect costs	None	None	None	None	None	None

Citizens: The Innovation Fund will incur no costs for the citizens.

Businesses: The main costs for businesses will be one-off costs related to the application process, administrative and legal costs related reporting and audits and their volume will vary widely depending on the size and complexity of the projects. Part of these costs will be covered fully or partially by grants provided by the Innovation Fund. Recurrent costs will involve reporting related to the achievement of milestones at the commissioning, ramp-up and entry into operation, audits, as well as periodic reporting during the operation. Since these reports will be mainly fed by standard accounting and other records produced by beneficiaries as business as usual, recurrent costs specifically related to reporting under the Investment Fund will not be significant.

Administrations: The preferred option reduces the administrative burden for Member States. The administrative costs for the public implementing body of the Innovation Fund will be covered from the resources of the Innovation Fund.